JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

NANCY L. SMITH

(b) County of Residence of First Listed Plaintiff MONTGOMERY
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Michael E. Alpago, Esquire
Hahalis & Kounoupis, P.C.
20 East Broad Street
Bethlehem, PA 18018
610-865-2608

DEFENDANTS

N3 OCEANIC, INC.

County of Residence of First Listed Defendant MONTGOMERY
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*
Randal S. White, Esquire
Fox Rothschild LLP
2700 Kelly Road, Suite 300
Warrington, PA 18976
215-345-3610

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☒ 1	☒ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☒ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities Employment
- ☐ 446 Amer. w/Disabilities Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District *(specify)*
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
29 U.S.C. §631

Brief description of cause:
Age Discrimination

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE ______ DOCKET NUMBER ______

DATE 2/12/2016

SIGNATURE OF ATTORNEY OF RECORD
EMMA M. KLINE, ESQUIRE
Emma M. Kline

FOR OFFICE USE ONLY

RECEIPT # ______ AMOUNT ______ APPLYING IFP ______ JUDGE ______ MAG. JUDGE ______

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NANCY L. SMITH,	:	CIVIL ACTION
Plaintiff,	:	NO.
v.	:	
N3 OCEANIC, INC.	:	
Defendant.	:	

NOTICE OF REMOVAL OF DEFENDANT N3 OCEANIC, INC.

Pursuant to 28 U.S.C. § 1441 *et seq.*, Defendant, N3 Oceanic, Inc. ("N3"), by its undersigned counsel, hereby files this Notice of Removal to remove this action from the Court of Common Pleas of Montgomery County, Pennsylvania, in which it is now pending, to the United States District Court for the Eastern District of Pennsylvania, and in support thereof, avers as follows:

1. Plaintiff, Nancy Smith, commenced this action for purposes of state law by filing a praecipe for issuance of a writ of summons on October 23, 2015.

2. Plaintiff did not file or serve N3 with any initial pleading setting forth her claims until January 21, 2016, at which time N3 was served with a copy of the Complaint styled as *Nancy Smith v. N3 Oceanic, Inc.*, Civil Action No. 2015-28250 in the Court of Common Pleas of Montgomery County.

3. Plaintiff's Complaint includes claims based upon N3's purported violation of the federal Age Discrimination in Employment Act ("ADEA").

4. A true and correct copy of all pleadings served upon N3 to date in the state court proceedings are attached hereto as Exhibit "A."

5. The present lawsuit is removable from the state court to this Court, pursuant to 28 U.S.C. § 1441(a), because the Complaint alleges under the the federal ADEA against N3, and such claims are within the original jurisdiction conferred on the district courts of the United States by 28 U.S.C. § 1331.

6. This notice of removal is timely filed under 28 U.S.C. § 1446(b) because the notice is filed within thirty days of service of a copy of the Complaint on January 21, 2016.

7. Venue is properly laid in this district, pursuant to 28 U.S.C. § 1391(b) and (c) because a substantial part of the events giving rise to Plaintiff's alleged claims occurred in this district, and N3 is subject to personal jurisdiction within this district.

8. As required by 28 U.S.C. § 1446(d), N3 will provide written notice of the filing of this Notice of Removal to Plaintiff. N3 will also file a copy of this Notice of Removal with the Prothonotary of the Court of Common Pleas of Montgomery County, Pennsylvania.

WHEREFORE, notice is hereby given that this action is removed from the Court of Common Pleas of Montgomery County, Pennsylvania to the United States District Court for the Eastern District of Pennsylvania.

FOX ROTHSCHILD LLP

By: Emma M. Kline
Emma M. Kline, Esquire
Attorney I.D. No. 314027
Attorneys for Defendant,
N3 Oceanic, Inc.

Dated: February 16, 2016

EXHIBIT "A"

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

SMITH NANCY

vs.

N3 OCEANIC INC

NO. 2015-28250

PRAECIPE FOR SUMMONS

To the Prothonotary:

Issue Summons in Civil Action in the above case.

ORIGINAL SIGNATURE RETAINED BY THE FILING PARTY
Signature

GEORGE KOUNOUPIS
Filing Party

49798
ID Number

Date 10/23/2015

HAHALIS & KOUNOUPIS
Firm Name

20 E. BROAD STREET
Address

BETHLEHEM, PA 18018

610-865-2608
Phone

* * * * * * * * *

TO: Defendant(s)

You are notified that the Plaintiff(s) has / have commenced an action against you.

COURT OF COMMON PLEAS MONTGOMERY COUNTY, PA

Prothonotary, Montgomery County

Date: 10/23/2015

By: Marissa Lobb
Clerk / Deputy

Addresses must be included for all parties.

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

SMITH NANCY

vs.

N3 OCEANIC INC

NO. 2015-28250

PRAECIPE TO REINSTATE / REISSUE

TO THE PROTHONOTARY:

( ) REISSUE WRIT

( ) REINSTATE COMPLAINT

ORIGINAL SIGNATURE RETAINED BY THE FILING PARTY
Signature/ID Number

GEORGE KOUNOUPIS
Print Name

20 E. BROAD STREET
Address

BETHLEHEM, PA 18018

610-865-2608
Phone

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

SMITH NANCY

vs.

N3 OCEANIC INC

REISSUED
Bryan Hart 11/25/2015

NO. 2015-28250

PRAECIPE FOR SUMMONS

To the Prothonotary:

Issue Summons in Civil Action in the above case.

ORIGINAL SIGNATURE RETAINED BY THE FILING PARTY
Signature

GEORGE KOUNOUPIS
Filing Party

49798
ID Number

Date 10/23/2015

HAHALIS & KOUNOUPIS
Firm Name

20 E. BROAD STREET
Address

BETHLEHEM, PA 18018

610-865-2608
Phone

* * * * * * * * *

TO: Defendant(s)

You are notified that the Plaintiff(s) has / have commenced an action against you.

Prothonotary, Montgomery County

Date: 10/23/2015

By: Marissa Lobb
Clerk / Deputy

Addresses must be included for all parties.

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

SMITH NANCY vs. N3 OCEANIC INC	NO. 2015-28250

CIVIL COVER SHEET

State Rule 205.5 requires this form be attached to any document commencing an action in the Montgomery County Court of Common Pleas. The information provided herein is used solely as an aid in tracking cases in the court system. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Name of Plaintiff/Appellant's Attorney: GEORGE S KOUNOUPIS, Esq., ID: 49798

Self-Represented (Pro Se) Litigant [ ]

Class Action Suit [ ] Yes [X] No

MDJ Appeal [ ] Yes [X] No

Money Damages Requested [X]

Commencement of Action:

Writ of Summons

Amount in Controversy:

More than $50,000

Case Type and Code

Tort:

Other

Other: EMPLOYMENT

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

SMITH NANCY vs. N3 OCEANIC INC	NO. 2015-28250

NOTICE TO DEFEND - CIVIL

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERENCE SERVICE
MONTGOMERY BAR ASSOCIATION
100 West Airy Street (REAR)
NORRISTOWN, PA 19404-0268

(610) 279-9660, EXTENSION 201

Supreme Court of Pennsylvania

Court of Common Pleas
Civil Cover Sheet

MONTGOMERY County

For Prothonotary Use Only:	
Docket No: 2015-28250	

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

S E C T I O N A

Commencement of Action:
- [X] Complaint
- [ ] Writ of Summons
- [ ] Petition
- [ ] Transfer from Another Jurisdiction
- [ ] Declaration of Taking

Lead Plaintiff's Name:	Lead Defendant's Name:
Nancy L. Smith	N3 Oceanic, Inc.

Are money damages requested? [X] Yes [ ] No	Dollar Amount Requested: (check one) [ ] within arbitration limits [X] outside arbitration limits
Is this a *Class Action Suit*? [ ] Yes [ ] No	Is this an *MDJ Appeal*? [ ] Yes [X] No

Name of Plaintiff/Appellant's Attorney: Michael E. Alpago

[ ] Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

S E C T I O N B

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your *PRIMARY CASE*. If you are making more than one type of claim, check the one that you consider most important.

TORT *(do not include Mass Tort)*
- [ ] Intentional
- [ ] Malicious Prosecution
- [ ] Motor Vehicle
- [ ] Nuisance
- [ ] Premises Liability
- [ ] Product Liability *(does not include mass tort)*
- [ ] Slander/Libel/ Defamation
- [ ] Other:

MASS TORT
- [ ] Asbestos
- [ ] Tobacco
- [ ] Toxic Tort - DES
- [ ] Toxic Tort - Implant
- [ ] Toxic Waste
- [ ] Other:

PROFESSIONAL LIABLITY
- [ ] Dental
- [ ] Legal
- [ ] Medical
- [ ] Other Professional:

CONTRACT *(do not include Judgments)*
- [ ] Buyer Plaintiff
- [ ] Debt Collection: Credit Card
- [ ] Debt Collection: Other
- [X] Employment Dispute: Discrimination
- [ ] Employment Dispute: Other
- [ ] Other:

REAL PROPERTY
- [ ] Ejectment
- [ ] Eminent Domain/Condemnation
- [ ] Ground Rent
- [ ] Landlord/Tenant Dispute
- [ ] Mortgage Foreclosure: Residential
- [ ] Mortgage Foreclosure: Commercial
- [ ] Partition
- [ ] Quiet Title
- [ ] Other:

CIVIL APPEALS

Administrative Agencies
- [ ] Board of Assessment
- [ ] Board of Elections
- [ ] Dept. of Transportation
- [ ] Statutory Appeal: Other
- [ ] Zoning Board
- [ ] Other:

MISCELLANEOUS
- [ ] Common Law/Statutory Arbitration
- [ ] Declaratory Judgment
- [ ] Mandamus
- [ ] Non-Domestic Relations Restraining Order
- [ ] Quo Warranto
- [ ] Replevin
- [ ] Other:

Updated 1/1/2011

NOTICE

Pennsylvania Rule of Civil Procedure 205.5. (Cover Sheet) provides, in part:

Rule 205.5. Cover Sheet

(a)(1) This rule shall apply to all actions governed by the rules of civil procedure except the following:

(i) actions pursuant to the Protection from Abuse Act, Rules 1901 et seq.

(ii) actions for support, Rules 1910.1 et seq.

(iii) actions for custody, partial custody and visitation of minor children, Rules 1915.1 et seq.

(iv) actions for divorce or annulment of marriage, Rules 1920.1 et seq.

(v) actions in domestic relations generally, including paternity actions, Rules 1930.1 et seq.

(vi) voluntary mediation in custody actions, Rules 1940.1 et seq.

(2) At the commencement of any action, the party initiating the action shall complete the cover sheet set forth in subdivision (e) and file it with the prothonotary.

(b) The prothonotary shall not accept a filing commencing an action without a completed cover sheet.

(c) The prothonotary shall assist a party appearing pro se in the completion of the form.

(d) A judicial district which has implemented an electronic filing system pursuant to Rule 205.4 and has promulgated those procedures pursuant to Rule 239.9 shall be exempt from the provisions of this rule.

(e) The Court Administrator of Pennsylvania, in conjunction with the Civil Procedural Rules Committee, shall design and publish the cover sheet. The latest version of the form shall be published on the website of the Administrative Office of Pennsylvania Courts at www.pacourts.us.

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA
CIVIL DIVISION

NANCY L. SMITH, Plaintiff,	:	CIVIL ACTION
	:	No.: 2015-28250
v.	:	
N3 OCEANIC, INC., Defendant.	:	JURY TRIAL DEMANDED

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING AN ATTORNEY.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT REDUCED FEE OR NO FEE.

LAWYER REFERRAL SERVICE
MONTGOMERY BAR ASSOCIATION
100 WEST AIRY STREET (REAR)
NORRISTOWN, PA 19401
(610) 279-9660, EXTENSION 201

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA
CIVIL DIVISION

NANCY L. SMITH, Plaintiff,	:	CIVIL ACTION
v.	:	No.: 2015-28250
N3 OCEANIC, INC., Defendant.	:	JURY TRIAL DEMANDED

COMPLAINT

I. PRELIMINARY STATEMENT

This is an action for an award for damages, liquidated damages, declaratory and injunctive relief, attorney's fees and other relief on behalf of Plaintiff, Nancy L. Smith (hereinafter "Plaintiff"). Plaintiff was an employee of Defendant, N3 Oceanic, Inc. (hereinafter, "N3 Oceanic"), who has been harmed by violations of Age Discrimination in Employment Act of 1967 ("ADEA"), 29 U.S.C. § 621 *et seq.*, as amended

II. JURISDICTION AND VENUE

1. This Court has jurisdiction in this matter because N3 Oceanic has its principal place of business in Pennsylvania and generally transacts business within the Commonwealth of Pennsylvania and Plaintiff resides within the Commonwealth of Pennsylvania.
2. Venue is properly laid in the Court of Common Pleas of Montgomery County, Pennsylvania under Pa. R.C.P. 1006 *et seq.* in that an essential part of the events or omissions giving rise to the claims in this Complaint occurred in Montgomery County, Pennsylvania and the principal place of business of N3 Oceanic is 404 Main Street, Pennsburg, Montgomery County, Pennsylvania.

3. All conditions precedent to the institution of this suit have been fulfilled.

4. Plaintiff has invoked the procedure set forth in the ADEA. On or about March 9, 2015, Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC"), which was jointly filed with the Pennsylvania Human Relations Commission ("PHRC"), against N3 Oceanic alleging, inter alia, age based employment discrimination and retaliation.

5. More than 60 days have passed since Plaintiff was terminated by N3 Oceanic.

III. PARTIES

6. Plaintiff is a seventy-two (72) year old female citizen and resident of the Commonwealth of Pennsylvania, residing in Quakertown, Bucks County. Plaintiff, at all times pertinent hereto, was employed by N3 Oceanic as a Customer Service Representative ("CSR") from approximately February 2, 2004 through September 12, 2014.

7. At all times relevant herein, Plaintiff was a "person" and "employee" as defined by the ADEA, 29 U.S.C. § 630, and is subject to the provisions of said Act.

8. N3 Oceanic is a corporation organized and doing business under the laws of the Commonwealth of Pennsylvania with registered offices and a principle place of business at 404 Main Street, Pennsburg, Pennsylvania.

9. At all times relevant herein, N3 Oceanic was an "employer" and "person" as defined by the ADEA, 29 U.S.C. § 630, and is subject to the provisions of said Act.

10. N3 Oceanic has, acting through its agents, servants and representatives, on more than one occasion, met with the Plaintiffs, and has heard allegations from the Plaintiffs of

age-based discrimination, and retaliation

11. At all times relevant hereto, N3 Oceanic was acting through its agents, servants and employees, including but not limited to Stephanie Kintzel, Plaintiff's Supervisor, Fred Pello, N3 Oceanic's President, and Judy Ackerman, N3 Oceanic's Controller, who were acting within the scope of their authority, course of employment and under the direct control of N3 Oceanic.

12. At all times relevant hereto, N3 Oceanic acted by and/or failed to act by and through the conduct of its officers, managers, agents and employees, all acting within the scope and course of their employment.

13. At all relevant times herein, N3 Oceanic knew, or had reason to know, of the actions and inaction alleged herein and/or has personally participated in some of said actions and is ultimately responsible for same.

IV. CAUSES OF ACTION

14. Plaintiff is a 72 year old female who was employed by N3 Oceanic as a CSR from approximately February 2, 2004 through September 12, 2014. Plaintiff was the oldest CSR employed by N3 Oceanic.

15. At all relevant times, Plaintiff's supervisors were Stephanie Kintzel ("Kintzel"), Plaintiff's Supervisor; Fred Pello ("Pello"), N3 Oceanic's President; and Judy Ackerman ("Ackerman"), N3 Oceanic's Controller. Kintzel and Ackerman were both significantly younger than Plaintiff

16. During Plaintiff's employment with N3 Oceanic, Plaintiff performed her job duties in a proper and competent manner.

17. Despite her proper and competent performance, N3 Oceanic, through Kintzel, Pello, and Ackerman, began to harass and discriminate against Plaintiff due to her age in early 2014, shortly after Kintzel was assigned to supervise N3 Oceanic's Customer Service Representatives, and targeted Plaintiff for termination so N3 Oceanic could develop a younger workforce.

18. N3 Oceanic's harassment and discriminatory conduct based on Plaintiff's age includes but is not limited to:

    a. Subjecting Plaintiff to hyper-criticism and hyper-scrutiny while other younger employees were not treated in such a manner;

    b. Berating Plaintiff for false and baseless reasons even though younger employees were not berated for the same conduct; and

    c. Disciplining Plaintiff for manufactured and baseless reasons and for reasons that other younger employees were not disciplined for.

19. Plaintiff complained of this discriminatory conduct to Pello and Ackerman in May or June of 2014.

20. In response to this complaint of age-based discrimination, N3 Oceanic took no remedial action, did not investigate these complaints, and permitted the discriminatory and harassing conduct to continue unabated.

21. Plaintiff continued to perform her job duties in a proper and competent manner even though N3 Oceanic's harassment and discriminatory conduct continued; in fact, Plaintiff was told she was performing her job duties well on September 9, 2014.

22. However, three days later on or about September 12, 2014, Plaintiff's employment was

terminated due to an alleged customer complaint in August of 2014 and because business was slow.

23. Four days prior to Plaintiff's termination, N3 Oceanic created an additional CSR position and hired an 18 year old to fill this position. This was done even though there was no increase in work or legitimate business reason to add an additional CSR. N3 Oceanic created this position and hired this individual so that individual could be trained before N3 Oceanic terminated Plaintiff's employment and there could be a smooth transition. As a result, this 18 year old CSR was hired as Plaintiff's replacement.

24. N3 Oceanic's reason for termination was manufactured and pretextual in order to conceal the age-based animus for discrimination and to retaliate against Plaintiff for reporting age-base discrimination. Specifically, with regard to the alleged customer complaint, N3 Oceanic speculated that the customer complaint was about Plaintiff and therefore, used this baseless reason to terminate her employment. However, there was nothing to indicate Plaintiff was the CSR the customer complained about and N3 Oceanic never discussed this incident with Plaintiff as N3 Oceanic was searching for any reason to terminate Plaintiff's employment. Further, N3 Oceanic stated Plaintiff's employment was terminated because business was slow, however, an 18 year old was hired a few days prior to Plaintiff termination and there were other individuals with less seniority than Plaintiff who could have been let go if business was slow. As a result, these bases was false, manufactured and pretextual.

25. Plaintiff believes and avers that she was replaced by an individual substantially younger

than her and outside the ADEA protected class.

26. N3 Oceanic engaged in this aforementioned harassment and discriminatory and retaliatory conduct as part of a practice of ousting older employees and maintaining a younger work staff.

27. Plaintiff was terminated by N3 Oceanic solely due to her age.

28. As a direct result of N3 Oceanic's conduct, Plaintiff has been irrevocably damaged.

29. As a direct result of N3 Oceanic's above-stated conduct, Plaintiff has suffered on-going back-pay and front-pay losses.

30. As a direct result of N3 Oceanic's above-stated conduct, Plaintiff has suffered and continues to suffer emotional, psychological, and physical distress and humiliation.

31. As a direct result of N3 Oceanic's above-stated conduct, Plaintiff's career, professional and job opportunities has been impaired and damaged and she has suffered a loss of earnings and earning capacity.

COUNT I
PLAINTIFF v. N3 OCEANIC
AGE DISCRIMINATION AND RETALIATION IN VIOLATION OF THE ADEA

32. Paragraphs 1 through 31 inclusive, are incorporated by reference as if fully set forth at length herein.

33. Solely because of Plaintiff's age, Plaintiff was treated disparately and denied the opportunity to continue in her employment with N3 Oceanic and retaliated for "protected conduct" under the ADEA.

34. The foregoing acts of N3 Oceanic constitute unlawful discrimination against Plaintiff in violation of the ADEA.

35. The action of N3 Oceanic is without reason or basis and is so arbitrary, capricious, and unfounded that Plaintiff is thereby denied due process of law.

36. Plaintiff has no adequate remedy at law.

37. As a direct result of N3 Oceanic's willful and unlawful actions in treating Plaintiff in a discriminatory and retaliatory manner solely because of her age, in violation of the ADEA, Plaintiff has sustained loss of earnings, and benefits, plus loss of future earning power, plus back pay, front pay and interest due thereon.

STATEMENT OF FACTS JUSTIFYING
THE IMPOSITION OF PUNITIVE/LIQUIDATED DAMAGES

38. Paragraphs 1 through 37, inclusive, are incorporated by reference as if fully set forth at length herein.

39. At all times relevant hereto, N3 Oceanic knew or should have known of the pattern of conduct in which its agents, servants and representatives had engaged.

40. At all times relevant hereto, N3 Oceanic knew or should have known that the aforesaid pattern of conduct was in violation of the law.

41. Despite such knowledge, N3 Oceanic failed to adequately investigate, discipline or discharge its agents, servants and representatives who created a hostile work environment, discriminated against Plaintiff and subjected Plaintiff to disparate treatment.

42. N3 Oceanic failed and refused to properly protect and support Plaintiff and in fact subject or permitted her to be subjected to discrimination, harassment, and retaliation.

43. At all times relevant hereto, N3 Oceanic acted willfully, wantonly, recklessly and with

an outrageous disregard and indifference to the rights, safety and well-being of Plaintiff and other employees similarly situated.

V. PRAYER FOR RELIEF

44. Paragraphs 1 through 43, inclusive, are incorporated by reference as if fully set forth at length herein.

WHEREFORE, Plaintiff request this Court to enter judgment in her favor and against N3 Oceanic and request that this Court:

a. Exercise jurisdiction over her claims;

b. Award traditional tort remedies such as compensatory damages, pain and suffering, physical and emotional distress, economic loss, time loss, severe emotional trauma, including, and punitive/liquidated damages as may be available under law;

c. Issue declaratory and injunctive relief declaring the above-described practices to be unlawful, and enjoining their past and continued effects;

d. Order N3 Oceanic compensate Plaintiff with a rate of pay and other benefits and emoluments to employment, to which they would have been entitled, had they not been subject to unlawful discrimination;

e. Order N3 Oceanic to compensate Plaintiff with an award of front pay, if appropriate;

f. Order N3 Oceanic to compensate Plaintiff for the wages and other benefits and emoluments of employment lost, because of their unlawful conducts;

g. Order N3 Oceanic to pay to Plaintiff punitive damages and compensatory damages for future pecuniary losses, pain, suffering, inconvenience, mental anguish, loss of employment of life and other non-pecuniary losses as allowable;

h. Order N3 Oceanic to pay to Plaintiff pre and post judgment interest, costs of suit and attorney and expert witness fees as allowed by law;

i. Award such other relief as is deemed just and proper.

JURY DEMAND

Plaintiff demands trial by jury.

HAHALIS & KOUNOUPIS, P.C.

By: ______________________
MICHAEL E. ALPAGO, ESQUIRE
20 East Broad Street
Bethlehem, PA 18018
(610) 865-2608
Attorneys for Plaintiff

Dated: January 21, 2016

VERIFICATION

I, Michael E. Alpago, verify that I am the Plaintiff's attorney in this civil action and that the facts contained herein are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsifications to authorities.

Michael E. Alpago
HAHALIS & KOUNOUPIS, P.C.

Dated: January 21, 2016

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NANCY L. SMITH, Plaintiff,	:	CIVIL ACTION
v.	:	NO.
N3 OCEANIC, INC. Defendant.	:	

CERTIFICATE OF SERVICE

I, Emma M. Kline, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Removal of N3 Oceanic, Inc. was served upon the following individuals by United States first class mail, postage prepaid, and addressed as follows:

Michael E. Alpago, Esauire
Hahalis & Kounoupis, P.C.
20 East Broad Street
Bethlehem, PA 18018

Emma M. Kline

Emma M. Kline, Esquire

Dated: February 16, 2016